

TILEC

TILEC Discussion Paper

Modes of governance in the Dutch social housing sector ¹

Pieter H.M. Ruys, Jan Bruil and Henry Dix

Tias and TILEC, Tilburg University, the Netherlands

Version 2007-01-04

Abstract: *We describe and analyze five consecutive modes of governance in the Dutch social housing sector. We compare these institutional forms with the five policy values that the sector was assumed to realize. For that purpose we propose and use a new, analytical framework based on a separation principle that is applied to the coercion domain (the governance of transactions) as well as to the interaction domain (the welfare values). The consecutive modes of governance were introduced to cope with the changing welfare policies, but with varying results. In this paper we show that the implemented modes of governance in the Dutch social housing sector did not always realize the values that the sector was supposed to deliver. The framework we propose also facilitates the discussion about the concept of a social enterprise and the embedding of a service of general interest in the European Union.*

JEL-codes: D0, L2, L3, O12

Keywords: Transaction cost economics, modes of governance, values and services, social enterprise, service of general interest, social housing.

1 Introduction

In public administration one observes a fast expanding private domain and a retreating public domain. The extreme *postmodernistic* view (Frissen, 1999) holds that the classical, vertical democracy is transforming to a horizontal network society with continuous bargaining. Focusing on the services providers, they prefer decentralized but powerful agencies – without transparent checks and balances – to a politically controlled, authoritarian government. On the procurement side, they see the system of vertical representation of service receivers – with established political and democratic institutions – undermined and replaced by a process of permanent, horizontal bargaining in a network society as the ultimate form of democracy. So the postmodernistic view adopts the bottom-up approach in contract formation. The philosophical school called *contractualism*² focuses on the analysis of contracts in some mode of governance, with its particular checks and balances. A contract may be an allegedly historical one or a tacitly implied one, or an imaginary one. It may be between people who set up a sovereign, or between the people and the sovereign, or between the individual and society or the state, or between hypothetical beings in a setting making for impartiality. It is a rational way to allocate power.

¹ We are very indebted to a referee for his/her perspective remarks, to the members of the International Scientific Commission “Public Services / Public Enterprises” of CIRIEC, to Eric van Damme and Pierre Larouche (TILEC) for their constructive comments.

² The idea goes back at least as far as Plato's *Crito* (c.395 BC), and contractualists (or contractarians) have also included Thomas Hobbes (1588-1679), John Locke (1632-1704), Jean Jacques Rousseau (1712-1778), and various modern writers.

In this paper we attempt to explain these observed trends by presenting a framework, in which welfare policies are separated from modes of governance. The *institutional isomorphism mechanism* (DiMaggio and Powell, 1983) explains that the institutional form of similar organizations converges to a mode of governance with norms and symbols that are relevant for all organizations in this class. Similarly, the *discrete alignment principle* (Williamson, 1991) explains that an organization selects its institutional form by aligning the corresponding governance structure with its exchange characteristics. Since these legal characteristics and the social norms and symbols belong to distinctive institutions that are finite in number (North, 1981), we consider discrete changes in governance. That offers an opportunity to design and test an efficient contracting hypothesis of a sort that has been introduced by Williamson in his Transaction Costs Economics (TCA). From economizing on transaction costs the comparative efficacy of alternative generic forms of governance can be determined. Where Williamson focuses on the production side of the economy, we follow Ruys (2005) in extending this approach by introducing modes of governance that are also applicable for consumer organizations.

The Dutch housing corporations play a dominant role in the rented house market. Table 1 partitions the housing market into three categories: social rented houses, private rented houses, and owner-occupied houses for nine European countries.

Country	Social rented	Private rented	Owner-occupied
Netherlands	35	10	55
Denmark	28	18	54
Sweden	24	23	53
UK	21	11	68
France	18	20	62
Finland	18	20	62
Belgium	7	26	67
Ireland	7	10	83
Germany	6	50	44

Source: Norris and Shiels (2004)

Table 1. Composition of the stock of houses 2001/2002 in percentages

The more than 500 Dutch housing corporations own 2,4 million affordable houses for rent. They not only offer houses to low-income families, but also to middle and sometimes even to high income groups. So living in a social rented house in the Netherlands does not necessarily mean being poor. About 15% of the families receive a rent-subsidy, so the market share of social housing would shrink from 35% to 15% if only low-income families would be eligible. It also would mean stigmatization of that group, which was not politically acceptable. However, this policy turned out to be not only a very expensive solution, but also untenable in terms of consumers' sovereignty. In short, the early successful governance of the housing sector in the years of housing shortage was not suited to cope with subsequent changes in technology and consumer preferences.

The next section presents the analytical framework for delineating modes of governance. Section 3 presents a description of governance in the housing sector in five consecutive periods and assigns corresponding modes in the analytical framework. Section 4 gives a description of the consecutive welfare policies, and an assessment of the effects. Section 5 describes an important dimension of good governance: supervision in the social housing sector. The recent developments are stimulated by the change in the mode of governance. Section 6 concludes.

2 Modes of governance

2.1 Various approaches

The impact of a mode of governance on the performance of an economy or of an organization is high on the research agenda of the professional economists. or the legal origins literature (see Dam, 2006), and of policy designing institutions as the World Bank. The purpose of this research is to predict the choice of an institutional arrangement and to test this prediction, before giving a normative advice. There is, however, not yet a full agreement about the modeling of the governance framework or about an operational definition of the concept. The most influential definition is the contracting framework by Williamson (1985). The World Bank Institute, a research component of the World Bank, has developed an alternative governance concept, which is closer to the legal approach in the discussion of the relationship between the rule of law and economic performance.

The dominant line of thought in the school of New Institutional Economics (NIE) is based Williamson's (1975) contracting framework. This paradigm is called Transaction Cost Economics (TCE)³. It takes *market contracting* as the original state of affairs and considers circumstances where deviations from market transactions will economize on transaction costs. Williamson (1985) puts the mode of governance that is characterized by organizational hierarchy at the other extreme from market contracting, and calls it *vertical integration*. That mode will be relatively more efficient with recurrent transactions, and when either investment are idiosyncratic (high asset specificity) and uncertainty is either high or medium, or when investments are mixed (medium asset specificity) and uncertainty is high. Governance mechanisms that lie between these two extremes Williamson refers to as *hybrid relationships*. Another mode of governance in the TCE tradition develops Dixit (2003: 452), focusing "on the governance of economic transactions, that is, the enforcement of contracts ... in large populations. ... In my analysis, participation is voluntary, and only the flows that each side brings into transaction each period are at risk due to the other's cheating."

In the NIE line of research, the World Bank Institute offers a model of 'good' governance. It identifies a set of governance indicators, broken down in six dimensions: voice and external accountability; political stability and lack of violence; crime and terrorism; government effectiveness; lack of regulatory burden; rule of law; and control of corruption.

³ Others have examined the enforcement of *property rights*. Within the property rights based theory of the firm, an organization is characterized by ownership over assets. Grossman and Hart (1986) define ownership by residual rights of control. Consequently, the type or the identity of the owners determines the organization's objective and form. The transaction approach takes instead the type of transaction as determinant of the organization's form. See also Hart and Moore (2006).

2.2 Ordering modes of governance

In this paper we apply a theory developed by Ruys (2005), which is essentially a TCE approach. A **transaction** is a relation between two contracting parties: a principal (or procurer) and an agent (or provider); it is the carrier of a service to be delivered and it determines the mode of the exchange value. The principals of a transaction determine the contents and pay the price; and the agents (or providers) deliver the agreed contents. Procurers or providers are groups of people and called parties. We assume that there is one dominant transaction characteristic: *the degree of coercion on the members* of a contracting party that is required for that party to manage and deliver its part of the agreement. It stretches from coercion of all members of a party by force of public law, to which the highest index is assigned, to voluntary transactions with index 1. The party with the highest index is the whole society or the ‘grand coalition’: a single set. The other extreme is a party with index 1, an independent individual, of which there are as many as there are members in the society. So the two-dimensional **ordering principle** for types of transactions is based on the assumption that the degree of coercion is *proportional to the size of the two contracting parties*, where each party is empowered by and commits all and only its members. A transaction that is identified by this principle we call a *base transaction*, which has to be specified by complementary transactions.

We further assume each type of transaction requires a legal environment, a kind of ‘constitution’ to specify behavioral rules and balancing procedures. One may think of allotting voting rights and designing voting procedures, or the protection of ownership rights, and/or the prevention of abusing market dominance (Article 82 of the EU treaty). Such a constitution contains *micro* procedures for arriving at a decision on the individual organizational level using social norms and symbols. These provide for legitimacy and helps organizations, for example, to cope with uncertainty by imitating their peers, as observed by DiMaggio and Powell (1983). On the *macro* level, the external organization, it also contains legally supported economic procedures for obtaining consistency between transactions and efficiency in society, such as arriving at a balance between parties, determining the exchange value between them, such as a market price; and implementing the agreement. In line with DiMaggio and Powell, we assume that organizations under a given constitution are homogeneous in functions and roles, as they are shaped by a broad set of similar institutional influences. This is the mechanism of *institutional isomorphism*, which is effective through the influence of the macro norms and symbols. Another type of pressure may come from economic competition between modes of governance or from evolutionary economics rationales⁴.

The ‘transactional constitution’ aims at supporting specific types of transactions in society. We assume that there exists for each base transaction a unique **mode of governance** that supports the mode of transaction in society, how complicated it may be. An organization is called a **hybrid** if it is governed by two or more modes of governance⁵. The mode of governance does not specify the terms of exchange, but only refers to the power base of the transaction parties involved. That defines a one-to-one mapping from the transaction space onto the space of governance modes. So the *ordering principle* for the set of governance modes is derived from the ordering principle of the set of base transactions.

⁴ The emergence of a mode of governance is studied elsewhere; see Dam (2006), Dixit (2005), Greif (1993), Ménard (2004) and other authors; see e.g. Ventoruzzo (2006) for regulatory competition.

⁵ The assumption implies that the modes of governance are *pure*, i.e., a mode supports one and only one mode of base transaction. Hybrid organizations are analyzed in Ruys (2006). Ménard (2004) focuses on the Williamson hybrids.

2.3 Modes of governance with coercion indexes

For the problem of analyzing governance in the social housing sector, we need for the parties involved a minimum of three modes. For each party we define a group empowerment index from 3 (full coercion, public law) to 1 (voluntary, private law). The set of governance modes contains thus nine fields, each containing a basic transaction. These are represented in Table 1. The bottom row in Table 1 represents decentralization of procurer-decisions, where independent, small procurers are faced with different types of providers. These procurers may be households that offer their savings on capital markets, or customers on a competitive market, or customers on a monopolistic market, or voters in an election for the national executive. Their transactions are supported in the modes, respectively, (1,1) or (1,2) or (1,3). Williamson restricts himself to arrangements according to private law, which are the modes (1,1) and (1,2) and the mode in-between, which he calls, respectively, the market mode, vertical integration, and hybrids. Williamson does not consider the modes for fully integrated provision (1,3) that require a central decision mechanism, a public authority and public law, neither integration on the part of procurers or consumers, the vertical dimension in Table 1. The last column in Table 1 represents decentralization of the provider- or production-decisions, allowing for competition among providers. This column contains characteristically economic transactions.

Provider group: Procurer group:	Centralized provider of comprehensive services (rules); (coercion index 3)	Cooperative members in a provider group (network); (coercion index 2)	Independent, small, single issue providers (producers); (coercion index 1)
Collectivity with comprehensive power; (index 3)	(3,3) Government systems; large decision unit	(3,2) Government agency systems; public enterprises	(3,1) Public-outsourcing systems (PPP)
Cooperation within membership groups of stakeholders; (2)	(2,3) Federative and political systems; NGOs	(2,2) Social enterprise systems; non-profits	(2,1) Procurer-cooperative systems
Independent, small owners of rights (voters, consumers); financial markets (1)	(1,3) Democratic (legitimizing) systems;	(1,2) Provider-cooperative systems	(1,1) Market and bargaining systems; small decision units

© Ruys

Table 1. Modes of governance with coercion (or group empowerment) indexes

Integrating procurers or users from the bottom row up makes them a group of stakeholders of an organization. The group-coherence may be voluntary, such as a cooperative or an alliance, indicating mode (2,1). If public law applies, the procurer is a public entity serving as a principal for small firms. This we call the Public-outsourcing mode (3,1) for small firms. Integrating providers from the right to the left increases the scale, the scope, or the time period of a transaction. A (Rousseau) transaction between the legislative and the executive of a society is a transaction between a fully centralized procurer and a fully centralized provider: mode (3,3). The non-profits and social enterprise systems are situated in (2,2), which is the domain where cooperation is not based on coercive public law.

Since the mode (2,2) is called here the **social enterprise** system, it is illustrative to check whether the dimensions defining a social enterprise meet the characteristics of the mode introduced here. Defourny (2001) and Defourny and Nyssens (2006) give a definition in terms of activities, which term we interpret as resulting from transactions. They provide the following four criteria for the economic and managerial dimensions of a social enterprise activity:

- a continuous activity, producing and selling goods and/or services;
- a high degree of autonomy;
- a significant level of economic risk;
- a minimum amount of paid work.

The social dimensions are captured by five criteria:

- an explicit aim to benefit the community;
- an initiative launched by a group of citizens;
- decision-making power not based on capital ownership;
- a participatory nature, which involves the various parties affected by the activity;
- limited profit distribution.

As for the social dimensions, these belong evidently to the procurer group with coercion index 2 and to the providers' group with index 2 (or 3). The first economic criterion requires selling goods, which belongs to providers' coercion index 2 (or 1); a minimum of paid work excludes procurers' index 1. So, indeed, mode (2,2) dominates when modes of governance are assigned to the criteria defining a social enterprise.

De Ru e.a. (2005) propagates to incorporate the 'social enterprise' in the Dutch law system. They define it as an enterprise incorporated under private law, with considerable autonomy, aiming at a social goal, and with profits only destined for its mission. Missing in both definitions, however, is a system of checks and balances that is vital for performing in the context of an interdependent economy.

The modes of governance in the last column and the lowest row – the grey colored fields of the Table 1 – are suited for decentralized, independent individual decision-making, by procurers and/or by providers. That allows for (quasi-) market modes, on the demand and/or on the supply side, in which the economic allocative efficiency criterion can be applied. Money is an excellent instrument for decentralizing power, although a centralized force is needed to regulate the markets. The other modes are characterized by societal or group decision-making in the social and political domain, required for non-voluntary transactions in realizing equity and social values. The focus on the set of decentralizable modes corresponds with the so-called *Anglo-Saxon model* of governance model; the focus on the other modes corresponds with the *Rhineland model*. Both models are shown to be complementary in our approach.

2.4 Transaction costs and tradeoffs

Since the exercise of power on individual members of a group overrules individual circumstances and preferences, it has negative welfare effects. So *the cost of a mode of governance* is proportional to the degree of coercion applied, which is again *proportional to the size of any party in the transaction*. This transaction cost ordering defines a tradeoff between the various modes of governance. Integration of some party implies less freedom of choice for the composing parts (higher organization or welfare costs), if it is not necessary for the chosen service. Liberalization of a party implies more freedom of choice for the composing parts (higher welfare and lower organizational costs), and is cheaper if this decentralization of decisions is technological feasible. Integration may be necessary, however, for providing services with a higher degree of interaction and resulting welfare. So the tradeoff between two feasible modes of governance is determined by the change in welfare benefits and organizational costs

caused by a change in a mode of governance. Benefits and feasibility are subjects of Section 4.

Williamson designs a mapping from the transaction space into the modes of governance space. His theory predicts that an organization will align to a specific mode of governance when the transactions in which that organization is involved have specific characteristics. The key dimensions of uncertainty, frequency of occurrence, and asset-specificity identify these characteristics. This theory can be tested empirically⁶ and is called the efficient contracting hypothesis. Williamson's mode of Vertical Integration, for example, will be relatively more efficient with recurrent transactions, and when either investments are idiosyncratic (high asset specificity) and uncertainty is either high or medium, or when investments are mixed (medium asset specificity) and uncertainty is high. In this paper we deviate from Williamson's model in two ways. First, we have extended the choice of contracting in this paper to providers *and* procurers. Secondly, we have defined a mode of governance by a type of transactions. So we cannot assess efficiency without extending the model with welfare dimensions. Before doing so in Section 4, we describe the various modes of governance that were in force in the Dutch social housing sector.

3 Consecutive modes of governance in the housing sector

Modes of governance belong to the organizational domain. They interact with welfare policies, but we treat them separately in order to analyze which mode of governance is used for which type of welfare policy. In this section we assign modes of governance mentioned in Table 1 to consecutive periods. The reference set – the grand coalition – is the community of Dutch citizens. That community or appropriate subsets enter into transactions to manage the social housing sector. Five consecutive periods are distinguished, each offering a different solution. We simplify matters by identifying the dominant type of transaction for each period.

3.1 Private social enterprises (1850-1940)

In the 19th century, it was private initiative that established housing corporations in the Netherlands. The legal form was a cooperative association with membership established under private law, aimed at improving the miserable housing conditions of workers in the cities. It is typical for the Dutch society that their roots stem from private, civil initiative and not from a public authority on any level. At that time, society was organized along the lines of the so-called 'pillars', the vertically integrated social groups, such as the Socialists, the Roman-Catholics, and the Protestants, who take care of the needy in their 'pillar' for all aspects of life: housing, health, youth and education. Although in the Dutch tradition the interaction between procurers (principals) and providers (executive agents) in determining a decision (transaction) is strong, that did not mean that organization was hybrid or that the agent was sitting on the chair of the principal! In 1902, a political consensus was reached to transpose some responsibility to the central government. According to the *Woningwet* (Housing Law), the government subsidizes a social housing association if it has received the status of *toegelaten instelling* (admitted institution). The government marginally subsidized deficits due to the fact that the group of tenants cannot afford market-determined rents.

Mode of governance (2,2):

⁶ Carter and Hodgson (2006) observe however, that the empirical evidence does not decisively support Williamson's theory; so further research is necessary.

A corporation was owned and financed by a group of stakeholders belonging to one of the social groups that partitioned the Dutch society. In 1902, the government joined the group of stakeholders. So from the procurer's view, it is the mode of row index 2 in Table 1. The social housing was provided by some producer cooperation: column index 2.

3.2 *Central planning: reconstruction and mass production (1945-1965)*

After the Second World War, the government assumed the role of a housing procurer and developer to beat "peoples' enemy nr.1". Central administration and regulation was developed to enhance the number of houses built each year. These conditions also included severe price- and rent controls. The powerful instrument for this goal was the full financing of the housing projects, formally by means of subsidies, and by determining the conditions for these subsidies. In 1948, the Marshall plan brought sizeable financial support to reinvigorate the European economies, and allowed for experimental production methods to decrease building time and costs.

The reconstruction started from a national governmental network, in which the municipalities played an important role. There was no role for the housing corporations, other than managing daily operations. The influence of the housing corporations grew in time. In the sixties, the unions of housing corporations ("*centrales*") were successful in their intermediation with the government to bunch together separate corporation contingents of houses to be built into regional contingents, which increased building streams.

Mode of governance (3,3):

All social housing projects were financed and strictly regulated by the government: row index 3 in Table 1. Although the government did not own the housing corporations, the actual power was in the hands of the government. The central government took over the responsibility for the provision of social housing – column 3 in Table 1 – and delegated only the management functions to the corporations.

3.3 *The corporation as government agency (1965-1993)*

The end of the harsh housing shortage ended the task of the state and the government wanted to shift responsibility to the corporations to listen better to the tenants' wishes. A gradual process of decentralization was implemented and in 1965 the housing corporations regained their status as project developers, but under strict central regulation. The municipal conditions for social housing loans and contributions were standardized. Although the municipalities were obliged to call in the corporations for designing building plans, the municipalities in the big cities were not eager to follow this route. Only a minority of the housing corporations were involved in the preparation and procurement of municipal building projects. As a consequence of her regulatory involvement, the housing budget of the central government increased from €1,000,000,000 in 1970 to €6.5 billion in 1985 (8.7% of the state budget).

Mode of governance (3,2):

Social housing projects were still financed and strictly regulated by the government – row index 3 in Table 1 – although the government did not own the housing corporations. The central government delegated responsibility for the provision and the management of social housing again to the social housing corporations: column index 2 in Table 1.

3.4 Liberalizing and quasi-privatizing the corporations (1993-2005)

In order to relieve the state budget from the ever increasing burden caused by the social housing expenditures there was a political agreement to decentralize also the financial responsibility and procurement to the corporations. Government failures and the increasing belief in the efficiency of market forces made such a change in governance possible. In 1993 the government terminated subsidizing the housing corporations and the corporations received independence from detailed central government regulation. A watershed forms the “*bruteringsregel*”, a capital clearing operation in 1995. It was agreed that all payback obligations for loans received by the corporations (€17 billion) were cleared with all governmental subsidy obligations (€16 billion), such as the yearly costs of long term loans and the contributions in the exploitation. That was the end of the system of financial state intervention in the social housing sector. The much weaker instruments of influencing and self-regulation followed it. Corporations were from now on allowed to engage in market activities for their own profit and risk. However, they were not privatized and a ‘destination obligation’ rests on the non-profit assets, which means government control.

The idea was to create the social housing corporation as a carrier of social enterprise in which both private entrepreneurship and the provision of social goals are supposedly combined. All non-core activities, that is, activities not mentioned in the BBSH⁷, have to be managed in separate legal entities and are subject to corporate tax.

The number of corporations (the number of municipal corporations) decreased in this period from 600 (21) in 2002 to 526 (18) in 2005. Their employment rose from 22,444 to 26,000.

Hybrid modes of governance (3,2), (2,2) and (2,1):

The housing corporations faced strict regulation by the government for social housing projects – row index 3 in Table 1 – but for the private, non-core activities the procurement power went to the housing corporations: row index 2 in Table 1. The type of provider for the corporation was extended to providing on the private market: column 1 in Table 1. The hybrid form of governance made the housing corporation a hybrid organization.

The chosen modes of governance did not, however, specify the procurement side of the base core and non-core transactions satisfactorily. If the government withdraws from her role of procurer, who did take her place and legitimized the social activities of the social corporation? If eventually losses on non-core transactions exceeded the value of the free assets, could the social corporation go bankrupt? It was understood that internal supervision should substitute government supervision⁸. Most housing corporations changed their legal status from a cooperative association with members to a foundation, which increased their independence from corporation members and their strategic powers⁹. This process of becoming independent was at the height in 2004, when the government handed over all houses that were until then only managed and exploited by the corporations. The understanding was that the sector would not be subsidized any more and would take care itself of the construction and management of houses suited for social rented houses. A group called NTMO¹⁰ formulated the idea that public tasks should be executed with the least possible regulation and social tasks as close as pos-

⁷ *Besluit Beheer Sociale Huurwoningen (BBSH)*, a ministerial directive from 1993, giving rules of behaviour for a social corporation that is a *toegelaten instelling*, an organization formally accepted by the government.

⁸ In 1995 the Commission Glasz, installed by large housing corporations, presented a pioneering report on internal supervision of housing corporations, called *Naar professioneel toezicht*.

⁹ In ‘t Veld (1997) was an influential proponent of hybridization and pleaded for a legal embedding.

¹⁰ *Netwerk Toekomst Maatschappelijke Ondernemingen (NTMO)*, *De waarde van de maatschappelijke onderneming geborgd*, 2003. *Wetenschappelijke Raad voor het Regeringsbeleid (WRR)*, *Omgaan met overmaat. De vermogens van de corporaties als sturingsopgave*, 2003.

sible to the group receiving the services, in 2003. The WRR (2003) added softly that a pure model of self-regulation is not desirable: corporations have always to be accountable to the political domain and to society as a whole.

In 2005, EU-Commissioner Mrs. Neelie Kroes sent a letter to the Dutch government in which she urged the Dutch corporations to comply with the competition rules of the EU. The hybrid form chosen above did not guarantee a correct separation between the provision of marketable services from the desired services of general interest. That was – surprisingly – a surprise for the Dutch government and parliament. The hybrid form had more disadvantages. Although the previous policy indeed resulted in an increase in high quality private house building, it also caused stagnation in the social house building. The Minister wanted to ‘seduce’ the corporations to invest more in unprofitable social housing. A new rental bill, *Huurwet 2006*, the Rent bill 2006 was introduced, according to which the house rents were slightly liberalized against the promise of the corporations (i) to invest more in social housing projects and (ii) using parts of the increased rents to compensate specific tenants. They ought to do so voluntarily, based on their responsibility as a ‘Social Enterprise’. If imposed by law, these complementary measures – confirming the hybrid construction – could make the bill politically viable.

The fall of the government has prevented the Rent bill 2006 to become a law. That very cautious attempt to liberalize the social housing market was postponed for some time. Since the government gives now individual rent subsidies¹¹ rather than subsidizing the corporations, it has not too much interest in liberalization. That makes it hard or impossible for the corporations to develop a long term business strategy. Secondly, the privatized corporations have no privileged admission any more to local building lots. Large private project-developers buy out farmers for future building lots and the thus create scarcity, which causes stagnation and disequilibrium in the housing market; notably the ‘starters’ in the housing market find themselves in a difficult position. That problem was aggravated by the ban to build houses in the designated rural areas.

We have mentioned above a power gap in this hybrid form of governance. That has been filled up by the Boards of Directors of the corporations, who were covered by the networks they indirectly command. The effect of this development is ambiguous: some corporations provide excellent services; others become inert. The results of the corporations and the fact that the role of supervision is now under scrutiny, indicates that this aspect of governance is not quite satisfactory resolved. This is the subject of the Sections 4.4 and 5.

3.5 A social enterprise (2005 - ...)

The future form of governance of the Dutch social housing sector is still under discussion. Important government advisors as the SER and the WRR are in favor of a hybrid form. But the social enterprise may possibly emerge as a more satisfactory and transparent mode of governance.

¹¹ An OECD report “Economic survey of the Netherlands 2004, Housing Policies” made very critical remarks on the Dutch rent policy. It says that the system of rent subsidies performs badly because tenants remain too long in a cheap house. The OECD proposes to adapt the rents gradually to the level of the rents in the free housing market.

4 Types of welfare policies

4.1 Ordering values, services and welfare policies

A welfare policy specifies societal values and assigns institutional forms to achieve these goals. In our approach the institutional form can be analyzed and predicted from a given value or policy-goal by separating the value domain from the governance domain. Where the governance domain with procurers and providers has been treated above, we focus now on the services delivered by performers and to receivers and generating values. There are many types of services and values, which are hard to compare. The unifying criterion we apply is based on the characteristics of the two interactive groups of people who – by delivering a service – create the value. Since we want to identify values by these two groups, it follows that the values considered here are restricted to behavioral and operational values¹². We define a **service** as a relation between two groups of people, a club of receivers and a team of performers. The interaction between the club and the team generates a **personal value**. The personal value corresponds in some specific context to the utility of a service for that person, or to a user value.

We assume that each club and each team in a service relation consists of all and only members who interact. So a club – or a team – internalizes all interaction between its members and all clubs are externally independent. Clubs – and teams – can therefore be ordered according to their size or, equivalently, according to their degree of interaction in society, which we call the *interaction index*. One extreme is the interaction between all members of society, with a maximal interaction index; the other extreme is a set of independent singles, externally fully independent, with a minimal interaction index. So separation of interaction defines the two-dimensional **ordering** of services and personal values of the service. Invoking the isomorphism mechanism again, we define a **type of service** by the condition that the interaction index for the club served, and for the team engaged, is the same for all organizations delivering this service. The number of types is therefore finite. Services of the same type may have different contents.

A typical size is not an exact magnitude, but it indicates typical boundaries of interaction, a minimal mass and a maximal stretch for the internal coherence of a club or of team, which itself is identified by a set of characteristic values and standards. A typical service may be complemented by a set of specific services.

4.2 Types of services related to social housing

Now we simplify matters by identifying only three types of services and corresponding values: a minimum needed to describe services in the social housing sector. This is the **service map** of Table 2. A type of personal value in a welfare policy is identified by the type of service with interaction-partners generating that value:

1. A single group with a nation-wide comprehensive values; interaction index 3;
2. Groups with professional or community values; interaction index 2;
3. Many groups with particular values; interaction index 1.

¹² The European Values Study (2005) identifies long-term values such as the value of family, work, friends, religiosity, tolerance, solidarity, confidence, obedience and work ethos, post-materialism, etcetera. These values are aggregated into two independent dimensions: normative/religious and personal autonomy / individual freedom. Since values are rather stable over time, they can characterize a country on the cultural map. Hofstede (1980), using the dimensions of power distance, uncertainty avoidance, femininity, and individualism, has performed a similar research.

So the degree of interaction required for teams is smaller when going from the left to the right and for clubs when going from the top to the bottom of the table. The top row contains services *for* the whole society *by* teams with internal interaction of varying size. That includes the Services of General Interest (SGI) and the Services of General Economic Interest (SGEI). The column with index 3 contains values *for* clubs of varying size *by* the whole community, which has to support services as constitutional norms and rules, or care for safety and environment. The column with index 1 contains services *for* clubs of varying size *by* many small teams, which are therefore comparable and measurable in outputs, allowing for defining competition, economic efficiency, and market prices. Economic services belong typically to this category. The row with index 2 contains social services as Services of Social Interest (SSI) and Services of Social Economic Interest (SSEI). The row with index 1 contains services *for* many independent, small clubs, which are therefore comparable and measurable in service appreciation, allowing for defining utility functions (public, local public and standard) and for applying methodological individualism and the Pareto optimality concept. One may notice that all these definitions are institutional-free.

Performers Receivers	Large team with broad interaction (index 3)	Professional teams (index 2)	Small, independent performers (index 1)
Large club with broad interaction (3)	Community values	Input- measurable public services (SGI)	Output- measurable public services (SGEI)
Clubs with specific interests (2)	Public services for clubs	Social services (SSI)	Output- measurable social services (SSEI)
Small, independent receivers (1)	Public services for individuals	Team services for individuals	Individual values

© Ruys

Table 2. The service map: typology of services and values, with indexes

Two welfare principles span this framework. The solidarity principle implies interaction in the whole society and is therefore a community value in the left-upper corner: services going in that direction are usually more equitable. The efficiency principle focuses on individual values and goes to the right-lower corner.

4.3 Consecutive welfare policies for social housing

In this section we identify the goals set in consecutive welfare policies in the Netherlands' social housing sector. For carrying out a correct analysis it is essential not to use institutional elements in the definitions or descriptions. That would jeopardize the separation between the

two domains, which separation is required for choosing the best managerial instrument for achieving a given goal.

- **1850 – 1940: Improving housing conditions for the poor.**

The housing corporations were a carrier for offering housing facilities to poor families by co-workers of the corporation. The type of receivers is the group (or 'club') of poorly housed, low income families belonging to some social group in society, so row index 2 applies. The performer is the professional team of housing experts, column index 2, which is engaged by an corporation. That is:

Welfare policy (2,2).

- **1945 – 1965: Reconstruction and mass production**

The service required now was to reconstruct houses for all citizens with the shortest delay. The consequence was a sober and standardized construction scheme. The revival of the building industry took much more time than was expected at the start. Building emergency livings and duplex houses solved the most cutting problems. The housing-shortage became a first priority for the country and dominated the political agenda for many years.

The type of receiver was (i) the whole population, calling for solidarity to beat "peoples' enemy nr.1" and for stability in performance, and (ii) as a subgroup the badly housed families. The government let its agencies and the corporations assume the role of performer of the service. That is:

Welfare policy (3,2).

The massive, centrally planned production led to monotonous blocks of housing units and produced eventually malcontent tenants. The consumers wanted their wishes for diversification and variety to be recognized separately from the general interest. Since the housing shortage was over, a new policy was desired.

- **1965 – 1993: Diversification and more variety**

Society as a whole (row index 3) was still a type of receivers of the government's housing services performed by the corporations (column index 2). But serving the varying interests of the club of tenants and their neighborhood (row index 2) became an independent type of receivers for the housing corporations (column index 2). So there appeared two types of services in the housing sector:

Welfare policy: (3,2) and (2,2)

The end of the basic housing shortage should also mean the end of government involvement in the housing sector. But abolishing the rights on housing and rents, established in the previous period, was politically infeasible. So the government service of regulating rents for social housing and subsidizing some individuals for costs of housing remained. The corporations' professional team services were expanded and liberated, with the core-activities delineated.

- **1993 – 2005: Higher quality: partly liberalizing social housing**

One type of receiver in the housing sector was society as a whole (row index 3) receiving an income policy and peace on the rent-front; this service was performed by the government (column index 3). The other type of service aims at the social club of eligible members of a corporation and neighbors (row index 2), with the housing corporations' professional team as the type of performer (column index 2). That team was also performing private housing services to other tenants, not members of the social club mentioned above (row index 1).

Welfare policies: (3,3), (2,2) and (1,2)

The corporations are expanding their social activities to other domains, overlapping the services of neighboring corporations (and therefore competing with them). They also expand their private services and sell their free assets (and therefore competing with private firms).

- **2005 – ...: Fully liberalizing with a Service of Social Interest?**

The type of services mentioned above are expanded with a new one: the receivers are non-members of the corporation (column index 1), with the housing corporations' professional team as the type of performer (column index 2).

Welfare policy: (3,3), (2,2), (1,2) and (2,1)

4.4 Confrontation: the efficient contracting hypothesis revisited

The separation of the value domain from the institutional domain allows for choosing the mode of governance for achieving a given type of service or goal in a welfare policy. That separation is also the fundament of the efficient contracting hypothesis, by which we can predict the choice of a mode of governance. We call a mode of governance a **feasible mode for a type of service** if it assigns sufficient power to the contracting parties to realize that type of service, that is, if the team contains the set of performers and the club contains the set of receivers of that type of service. So the mode (3,3) is feasible for all types of service, whereas the mode (1,1) is feasible only for the type of service (1,1). We call a mode of governance an **efficient mode** if it is feasible and requires the least power for the contracting parties to realize. When this criterion is applied to the Sections 4.2 and 3, we can conclude that in the first three time periods an efficient mode of governance has been chosen. Problems arise in the privatization mode, which have not been solved yet in the last mode of the corporation as a social enterprise.

- **1850 – 1940: Improving housing conditions for the poor**

The group of receivers belonged to the social group (or 'pillar') that included the stakeholders of the service, who identified themselves with the receivers. The group of performers was engaged by the corporation, the provider of the service. So mode (2,2) contains service type (2,2) and is feasible. It is also efficient.

Therefore, the type of service desired (2,2) is governed efficiently by mode (2,2).

- **1945 – 1965: Reconstruction and mass production**

Again, the type of service desired (3,2) is governed by mode (3,3), which implies too much central government involvement.

- **1965 – 1993: Diversification and more variety**

Two new types of service was desired (3,2) and (2,2), for which the new mode of governance was (3,2) was constructed. This mode is efficient for service (3,2) and feasible for service (2,2). But in the end it did not make true the expectations as formulated in the welfare policy.

- **1993 – 2005: Higher quality: partly liberalizing social housing**

The expanding activities (3,3), (2,2) and (1,2) were covered by the modes (3,2), (2,2) and (2,1), which is not a perfect match. The administrative policy¹³ to build houses in a limited number of large locations near the big cities: the so-called VINEX locations were accomplished, but the construction of social housing stagnated almost completely. Services of social

¹³ De *Vierde Nota ruimtelijke ordening EXtra (VINEX)*, or the fourth report on spatial ordering (1995).

interest (SSI) were formulated, but not supported by a transaction. The government's intention was that – after the ownership of all assets was shifted to the corporations – the housing corporations should continue building houses for the lower income categories, possibly extending their market to higher categories, and better oriented at the consumers' taste. The central government had in mind that the corporations were rich enough to cover the losses due to its rent policy, which policy remained intact. The government took the position that the management of these corporations should have internalized the external effects of housing corporations. The complex positioning of emancipated social housing corporations as social enterprises with a partial autonomy and strong dependence on governmental regulations seems to be a cause of the actual stagnation in the social housing sector. The hybrid character of housing corporations has resulted in a high degree of autonomy for strategic development, but also in a low degree of transparency. Some have used this autonomy to start new, sometimes surprising initiatives, such as taxi services and art lending, but they are gradually converging to either assuming responsibility for the livability of the districts in which their target groups live or to inertia (see Perotti, 2002).

- **2005 –: Fully liberalizing with a Service of Social Interest?**

Even more services are now taken up by the social housing corporations: (3,3), (2,2), (1,2) and (2,1). The modes of governance are still in discussion.

Public tasks should be executed with the least possible regulation. Tasks should be close to the group aimed at by the organization, according to the providers of public-sector organizations¹⁴. Social enterprises should succeed in situations where the free market mechanism fails. These enterprises have no need to fall back on bureaucratic or public law enforced mechanisms associated with government intervention. The Scientific Government Council (WRR, 2003) is in favor of a social enterprise, but adds that it should always be accountable to society. They think that a model of pure self-regulation is not feasible, neither desirable. That is why supervision has become a central issue.

5 Supervision in the Dutch social housing sector

The institute 'housing corporation' is a vehicle of social enterprise by which both (market oriented) entrepreneurship and achieving social goals are supposed to be realized. The actual surplus of capital assets in possession of the housing corporations offers new possibilities for society. The social legitimacy of the decisions made by the housing corporations are, however, questionable. There are at least two bottlenecks in spending the allocating the surplus of assets. Firstly, a so-called *bestemmingsplicht*, destination obligation, rests on the assets. So the resources can only be used in the interest of social housing and the housing corporations have not these funds at their free disposal. Various public authorities now try to use this restriction by imposing at will obligations on the corporations. The *verzelfstandiging* or emancipation of the corporations, however, is inconsistent with this strategy. Secondly, there exists a legitimate expectation from the side of the government that the corporations should support

¹⁴ *Netwerk Toekomst Maatschappelijke Onderneming* (2003), *De waarde van de maatschappelijke onderneming geborgd*. A critical analysis of the social housing sector gives Hof e.a. (2006). They suggest economically viable solutions for securing public interests in the housing market and observe that short-term political motives form a serious obstacle for a sound long-term solution. Ruys (2003) has also pleaded for designing strong modes of governance for the growth and distribution of social welfare rather than seeking protection in a hybrid labyrinth.

the public authorities to fulfill their social tasks. That task need not to be outsourced and bought as a service of general economic interest (SGEI), but can be formulated as a service of social interest (SGI or SSI) based on the destination obligation on the assets of the corporations. So there exists a public and legal framework to solve this bottleneck. A general opinion is growing that “the richness” of housing corporations, having its roots in the social sector, must be used for social purposes.

There exists a large variety in housing corporations, but they have one common denominator: they consider themselves social enterprises. A *social enterprise* is a private organization with a public-sector task. Their claim is based on being granted by the government the position of ‘admitted institution’, *toegelaten instelling*, according to the Housing Law (*Woningwet*, Ww) of 1901. That recognition implied rights and duties for the corporation. Instead of a strict description of the tasks to be fulfilled with the state’s subsidy, the corporation was allowed to own houses and to make profits but it faced the condition that its working capital could only be used in the service of the people’s housing. So legally the assets belong to the corporation, but economically the corporation has no full freedom to dispose of these assets. These assets are called ‘socially tied assets’.

The corporate mode of governance for housing corporations contains the following elements. The Board of Directors is responsible for the corporate policy, given the following restrictions:

- there exists a priori regulation based on the *Woningwet* 2001 (Ww) and the BBSH;
- there is a system of supervision and there exist sanctions;
- there are two financial funds for the sector: *Centraal Fonds voor de Volkshuisvesting* (CFV) and *Waarborgfonds Sociale Woningbouw* (WSW);
- there is a network of local relations (stakeholders).

An admitted corporation has to adopt the following articles in its by-laws:

- there is a Board of Supervisors;
- this Board of Supervisors has to draw up a people’s housing report;
- there are rules to give tenants influence on the composition of the board;
- in case of dissolution of the corporation, its assets has to be distributed among other corporations or the municipality; its net capital has to be deposited in a central fund.

The supervision by the central government was marginal and aimed at guaranteeing the continuity and solvability of the corporation by the CFV. The CFV calculates the *surplus* for many corporations, which part of the assets of a corporation could be spent on social purposes. In order to turn away the risk of direct political intervention, the Minister has urged the corporations to seriously plan spending this surplus on living quarters that lag behind in development and big problems are expected on the short term. In its annual report 2006, the CFV observes that the Boards of Supervisors of corporations are very slow in improving their performance, viz., their accountability towards society and their recruiting of board members.

Recently the Association of Housing Corporations, Aedes, has issued two codes for its members, viz.:

- The Aedes Code
- The Governance Code

In the Aedes Code is stated that the governance code is compulsory. The Governance Code has resulted from an assignment by the VTW, the union of supervisors in Housing corporations, and Aedes to the *Commissie Winters*. The code of this committee is sharper and requires more engagement than the Aedes Code.

Apart from the generic regulations in the Civil Code, housing corporations are also subject to the *Woningwet* (Ww) and the *Besluit Beheer Sociale Huursector* (BBSH 1993), a ministerial directive for the management of the social rent sector, issued by the *Ministerie van Volkshuisvesting en Ruimtelijke Ordening* (VROM), the Ministry of People's Housing and Environmental Design. The BBSH delineates:

- activities that housing corporations may undertake;
- policy domains upon which housing corporations may be active.

This directive regulates the functioning and performance of housing corporations on six policy domains, which define the public tasks with which a housing corporation is charged. Although the term 'service of general interest' is never used, it defines that service. The directive has been redesigned in 2004 requiring corporations to make a distinction between their core business, which is exempt from company taxes, and non-core or commercial services, such as broker services; these are subject to company taxes. The government, however, remains responsible for the supervision chain. The basic supervision is carried out by internal supervision; external supervision is complementary.

6 Conclusion

In the introduction we mentioned the postmodernistic view that the classical, vertical democracy is transforming to a horizontal network society with continuous bargaining between hybrid organizations. Complementary to this development is the need for transparency of a mode of governance, for security when engaging in long term contracts, and for efficiency with its particular checks and balances. People appreciate a rational way to allocate power, included economic power, which is channeled by modes of governance. If that power is not properly allocated, misallocations of wealth and services follow. In this paper we have shown that the consecutive modes of governance in the Dutch social housing sector did not always match with the values that the sector was supposed to deliver. We propose and use a framework that also facilitates the discussion about the concept of a social enterprise and the embedding of a service of general interest.

One conclusion of is that the expansion of non-core activities in the social housing sector and the underperformance in the core business is due to the vagueness and proliferation of the modes governance. The hybridization of governance has positive effects, such as a reformulation and reshuffling of tasks and methods. But in order to make these innovations durable, new boundaries have to be delineated and a strong mode of governance has to be designed for the new type of organization, which is usually called a social enterprise.

Another conclusion that is perhaps typical for the Netherlands is expressed by two questions. The first is: Who is the principal? That is, who has authority as a procurer (not as the executive provider on the various levels to enter into transactions, from whom it is received, and what are the consequences of underperformance? And the second question: How to solve the new type of government's failure: inconsistency between the various allowed modes of governance? For liberalizing and quasi-privatizing the social housing sector is inconsistent with simultaneously regulating rents. These and other problems have to be solved if one really wants to increase social welfare.

References

- Carter, R., and G.M. Hodgson (2006), "The impact of empirical tests of transaction cost economics on the debate on the nature of the firm", *Strategic Management Journal*, 27, 461-476.
- Carver, John (1990), *Boards that make a difference: a new design for leadership in nonprofit and public organizations*, Jossey-Bass Inc. San Francisco.
- Conijn, Jan (2005), "Woningcorporaties: naar een duidelijke taakafbakening en een heldere sturing", Rapport in opdracht van de Tweede Kamer der Staten-Generaal, RIGO.
- Dam, K.W. (2006), "Legal institutions, legal origins, and governance", Chicago Working Paper Series.
- Defourny, J. (2001), "From third sector to social enterprise", in: C. Borgaza and J. Defourny, eds., *The Emergence of Social Enterprise*, Routledge, 1-28.
- Defourny, J., and M. Nyssens (2006), "Defining social enterprise", in: M. Nyssens, ed., *Social Enterprise*, Routledge, 3-26.
- De Ru, H.J., J.L. Burggraaf en L.A.J. Spaans (2005), *De maatschappelijke onderneming*, Boom.
- DiMaggio, P.J., and W.W. Powell (1983), "The iron cage revisited: institutional isomorphism and collective rationality in organizational fields", *American Sociological Review*, 48, 147-160.
- Dixit, A. (2003), "On modes of economic governance", *Econometrica*, 71, 449-481.
- Greif, A. (1993), "Contract enforceability and economic institutions in early trade: the Maghribi traders", *American Economic Review*, 83, 525-548.
- Grossman, S.J., and O.D. Hart (1986), "The costs and benefits of ownership: a theory of vertical and lateral integration", *Journal of Political Economy*, 94, 691-719.
- Hart, Oliver, and John Moore (2006), "Contracts as reference points", Working Paper.
- Hof, B., C. Koopmans en C. Teulings (2006), "Een nieuw fundament. Borging van publieke belangen op de woningmarkt", SEO-rapport nr. 899, Amsterdam.
- Hofstede, G. (1980), *Culture's Consequences*, Sage Publications.
- Frissen, P. (1999), *Politics, Governance and Technology. A Postmodern Narrative on the Virtual State*, Edward Elgar.
- Granovetter, M.S. (1992), "Economic action and social structure: the problem of embeddedness", *American Journal of Sociology*, 91, 481-510.
- In 't Veld, R.J. (1997), *Noorderlicht; over scheiding en samenballing*, VUGA.
- L'Union Sociale pour l'Habitat (2006), *Logement social: quelle encadrement communale après l'exclusion de la directive services ?* Rapport 2005/2006 www.union-habitat.org
- Ménard, Claude (2004), "The economics of hybrid organizations", *Journal of Institutional and Theoretical Economics*, 160, 345-376.
- Norris, M., and P. Shiels (2004), "Regular National Report on housing developments in European countries: Synthesis report", Dublin: Stationary Office.
- North, D.C. (1981), *Structure and Change in Economic History*, Norton.
- Perotti, E. (2002), "Lessons from the Russian meltdown; The economics of soft legal constraints", *International Finance*, 5, 359-399.
- Ruys, P.H.M. (2003), *Gezonde en zieke economische stelsels; separatie en interactie van sterke rationaliteiten*. Rede, Universiteit van Tilburg.
- Ruys, Pieter H.M. (2005), "The Governance of Services", TILEC-DP 2005-24, Tilburg University.
- Ruys, Pieter (2006), "Een economisch perspectief op hybride organisaties", in: *Meervoudig Bestuur*, T. Brandsen, W. van de Donk, P. Kenis (red.), Lemma.

- Scotchmer, Suzanne (2005), "Consumption externalities, rental markets and purchase clubs", *Economic Theory*, 25, 235-253.
- Ventoruzzo, Marco (2006), "'Cost-based' and 'rule-based' regulatory competition: Markets for Corporate Charters in the U.S. and the EU", *Journal of Law and Business*, Fall 2006. Available at SSRN: <http://ssrn.com/abstract=934723>.
- Wetenschappelijke Raad voor het Regeringsbeleid (2003), *Omgaan met overmaat. De vermogens van de woningcorporaties als sturingsopgave*
- Williamson, O.E. (1975), *Markets and Hierarchies*, The Free Press.
- Williamson, O.E. (1985), *The Economic Institutions of Capitalism*, Macmillan.
- Williamson, O.E. (1991), "Comparative economic organization: the analysis of discrete structural alternatives", *Administrative Science Quarterly*, 36, 269-296.
-

Coordinates of authors:

Dr. Pieter H.M. Ruys
TILEC, Department of Economics and Business Administration
Tilburg University,
P.O.Box 5000 LE, Tilburg, The Netherlands
ruys@uvt.nl

Drs. Jan Bruil RA RC MPM
Stichting Vivare,
P.O. Box 5265, 6802 EG, Arnhem, the Netherlands
bruil.jan@kpnplanet.nl

Henry Dix, RA
TiasNimbas Business School, Tilburg University
P.O.Box 5000 LE, Tilburg, The Netherlands
Dixieland.gemonde@planet.nl